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EXAMINER

NGUYEN, NHON D

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/520,479

Applicant(s)

NEVEN ET AL.

Examiner

Nhon (Gary) D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

1. This communication is responsive to Amendment A, filed 02/10/2004.
2. Claims 1-48 are pending in this application. Claims 1-3, 11, 16, 17, 24, 25, 30-33, 35-42, 44 and 46 are independent claims. In the Amendment A, claims 1-3, 11, 16-23, 25, 28, 30, 33, and 35-41 are amended, and claims 42-48 are added. This action is made non-final.

Claim Objections

3. Claim 2 is objected to because of the following informalities:

The phrase "no character presentation" should be changed to --a character presentation--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 2 and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by McNerney et al. ("McNerney", US 5,999,208).

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As per independent claim 2, McNerney teaches a rich media theater controller, comprising:

a theater window having a background presentation scene (col. 5, lines 22-44), and

a presentation control to select a character for a presentation in the theater window, wherein the character presentation may be selected from an avatar, a blue screen cutout of the character, a character presentation, an audio presentation, or a video presentation, the presentation control further including capability to switch between these character presentations during a session in the theater window (col. 5, lines 64-67 through col. 6, lines 1-10).

As per independent claim 17, McNerney teaches a rich media communication system, comprising:

a theater to provide rich media presentations which include a visual representation associated with a person, the theater being independent of other theaters that include visual representations associated with other persons; (col. 5, lines 22-44 and col. 6, lines 11-19); and

an online directory to locate users capable of communicating with rich media presentations (608 of fig. 4; col. 6, lines 15-19).

As per claim 18, which is dependent on claim 17, McNerney teaches the directory includes a user's personalized address book (608 of fig. 4; col. 6, lines 15-19).

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As per claim 19, which is dependent on claim 17, McNerney teaches the directory includes a listing of users (col. 6, lines 15-19).

6. Claims 16 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsuda et al. ("Matsuda", US 6,609,147).

As per independent claim 16, Matsuda teaches a rich media communication system, comprising:

a theater including a visual representation associated with a person (fig. 26); and
a communicator to present the theater to a remote location using a rich media messaging directory service, and to communicate rich media content for the theater (col. 2, line 54 – col. 3, line 3 and col. 19, line 48 – col. 20, line 14).

As per independent claim 39, it is a similar scope to claim 16; therefore, it should be rejected under similar rationale.

7. Claim 35 is rejected under 35 U.S.C. 102(e) as being anticipated by Eilat et al. ("Eilat", US 6,227,974).

As per independent claim 35, Eilat teaches a method for generating and rendering rich media communications, comprising:

receiving media elements from a plurality of media sources (206 and 208 of fig. 5) and generating a multiplexed rich media communication bit stream having the media elements (302 of fig. 5); transmitting the bit stream to a receiver; decomposing the bit

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stream into separate rich media elements; and rendering the rich media elements to generate a rich media theater (304 of fig. 5; col. 12, lines 25-57).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 3-11, 15, 36-38, 40, 44, and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Eilat.

As per independent 1, McNerney teaches a rich media communication system, comprising:

a theater including a representation, associated with a person, to provide a choice of visual presence (col. 5, lines 45-67 through col. 6, lines 1-28);

a player to present the theater at a remote location (col. 3, lines 23-67 through col. 4, lines 1-5).

Mc Nerney does not disclose including at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person. Eilat discloses that at col. 7, lines 53-63. It would have been obvious to an artisan at the time of the invention to modify Mc Nerney's avatar to include at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person from Eilat since it would allow users to easily recognize a person via the avatar.

As per independent claim 3, McNerney teaches a rich media communication system, comprising:

a theater window having a representation associated with a person (col. 5, lines 45-67 through col. 6, lines 1-28), the theater having a media target onto which the person may direct media (col. 5, lines 22-32 and col. 6, lines 11-19); and

a player to present the theater window to a remote location (col. 3, lines 23-67 through col. 4, lines 1-5).

Mc Nerney does not disclose including at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person. Eilat discloses that at col. 7, lines 53-63. It would have been obvious to an artisan at the time of the invention to modify Mc Nerney's avatar to include at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person from Eilat since it would allow users to easily recognize a person via the avatar.

As per claim 4, which is dependent on claim 3, McNerney teaches the person may drop a predetermined theater into the theater window to generate a custom theater window (col. 5, lines 45-64).

As per claim 5, which is dependent on claim 3, McNerney teaches the person may drop an avatar into the theater window to generate an avatar image within the stage (col. 5, lines 64-67).

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As per claim 6, which is dependent on claim 3, McNerney teaches the theater includes a stage having a plurality of media targets, and rich media may be dropped on the stage for display in the media targets (col. 6, lines 11-67 through col. 7, lines 1-33).

As per claim 7, which is dependent on claim 6, McNerney teaches media dropped onto the stage is presented in the first available media target (col. 6, lines 11-67 through col. 7, lines 1-33).

As per claim 8, which is dependent on claim 6, McNerney teaches a still image is dropped onto a particular media target and the still image is shown presented in the particular media target (col. 5, lines 64-67 through col. 6, lines 1-10 and col. 7, lines 5-11).

As per claim 9, which is dependent on claim 6, McNerney teaches a video stream is dropped onto a particular media target and the video stream is shown presented in the particular media target (col. 7, lines 5-33).

As per claim 10, which is dependent on claim 6, McNerney teaches audio media dropped on the stage is played by the system (col. 4, lines 20-60 and col. 6, lines 11-67 through col. 7, lines 1-33).

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As per independent claim 11, McNerney teaches a rich media communication system, comprising:

a theater having a background presentation scene (col. 5, lines 22-44) with rich media targets, including capability to provide a non-real-life-equivalent background presentation scene, (col. 5, lines 22-32 and col. 6, lines 11-19) and having an avatar representation associated with a person, the avatar representation being driven by visual sensing of the person (col. 5, lines 45-67 through col. 6, lines 1-28), and

a player to present the theater at a remote location (col. 3, lines 23-67 through col. 4, lines 1-5).

Mc Nerney does not disclose including at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person. Eilat discloses that at col. 7, lines 53-63. It would have been obvious to an artisan at the time of the invention to modify Mc Nerney's avatar to include at least a personalized three-dimensional avatar representation of the person based on sensed geometric features of the person from Eilat since it would allow users to easily recognize a person via the avatar.

As per claim 15, which is dependent on claim 11, Eilat teaches a module that allows construction of a personalized avatar representation which is based on an image of the person (fig. 4; col. 11, line 55 – col. 12, line 19).

As per independent claim 36, it is a similar scope to claims 1 and 2; therefore, it should be rejected under similar rationale.

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As per independent claim 37, it is a similar scope to claim 3; therefore, it should be rejected under similar rationale.

As per independent claim 38, it is a similar scope to claim 11; therefore, it should be rejected under similar rationale.

As per independent claim 40, it is a similar scope to claim 1; therefore, it should be rejected under similar rationale.

As per independent claim 44, it is rejected under the same rationale as claim 15.

As per claims 46-48, they are rejected under the same rationale as claim 11.

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Eilat and further in view of Liles et al. ("Liles", US #5,880,731).

As per claim 12, which is dependent on claim 11, modified McNerney does not disclose the avatar representation may have selectable behaviors. Liles discloses that in col. 7, lines 18-42 and col. 9, lines 33-52. It would have been obvious to an artisan at the time of the invention to use the teaching from Liles of the avatar representation may have selectable behaviors in modified McNerney's system since it would convey a desired emotion and/or state of mind to another participant in the communication.

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11. Claims 13, 14, 32, 42, 43, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Eilat and further in view of Le Blanc (US 5,977,968).

As per claims 13 and 14, which are dependent on claim 11 and 13 respectively, modified McNerney does not disclose the visual sensing is performed by a sensor using wavelet-based feature tracking and wherein the tracking sensor may be trained with varying expressions of the person. Le Blanc discloses that at col. 3, line 49 – col. 4, line 2. It would have been obvious to an artisan at the time of the invention to use the teaching from Le Blanc of the visual sensing is performed by a sensor using wavelet-based feature tracking and wherein the tracking sensor may be trained with varying expressions of the person in modified McNerney's system since it would provide a vision based motion capture systems that implements convenient and efficient facial feature sensing.

As per independent claim 32, this claim is rejected under the same rationale as claim 14.

As per independent claim 42, this claim is rejected under the same rationale as claim 13.

As per claim 43, which is dependent on claim 42, this claim is rejected under the same rationale as claim 14.

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As per claim 45, which is dependent on claim 44, this claim is rejected under the same rationale as claim 13.

12. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Balma et al ("Balma", US #6,157,945).

As per claim 20, which is dependent on claim 17, and claims 21 and 22, which are both dependent on claims 20, McNerney does not disclose the directory includes a rich media card having a user's rich media communication parameters for communicating with the user, wherein the rich media card of a user may be transmitted to another user, and wherein a user's rich media card may be requested by another user. Balma discloses that in col. 4, lines 17-36. . It would have been obvious to an artisan at the time of the invention to use the teaching from Balma of including a rich media card having a user's rich media communication parameters for communicating with the user, wherein the rich media card of a user may be transmitted to another user, and wherein a user's rich media card may be requested by another user in McNerney's system since it would allow routing or forwarding of communications to the user, using the mode of communication preferred by the user to a location preferred by the user.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Weishut et al ("Weishut", US #5,923,737).

As per claim 23, which is dependent on claim 17, McNerney does not disclose the directory includes user blocking wherein a user may block rich media communications from selected other users. Weishut discloses that in col. 5, lines 31-46. It would have

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been obvious to an artisan at the time of the invention to use the teaching from Weishut of the directory includes user blocking wherein a user may block rich media communications from selected other users in McNerney's system since it would limit who has access to the rich media communications.

14. Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Herrick et al ("Herrick", US #5,778,222).

As per independent claim 25 and claims 26, 27, 28 and 29, which are dependent on claims 25, 26, 27 and 27 respectively, McNerney teaches a rich media communication system, comprising:

a rich media client for communicating rich media communications between users (col. 5, lines 45-67 through col. 6, lines 1-28), each user being associated with their own respective independent theater having rich media content and

McNerney does not disclose a directory for organizing rich media communication users into user-defined communities, the communities are organized in hierarchical levels, predetermined hierarchical levels are associated with a user who acts as a moderator for the level, the moderator may control access to the associated level including blocking of a particular user accessing the room, and wherein the hierarchical levels comprise cities, where the cities include neighborhoods, the neighborhoods include houses, and the houses have rooms. Herrick discloses that in col. 1, lines 37-55. It would have been obvious to an artisan at the time of the invention to use the teaching from Herrick of a directory for organizing rich media communication users into user defined communities, the communities are organized in hierarchical levels, predetermined

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hierarchical levels are associated with a user who acts as a moderator for the level, the moderator may control access to the associated level including blocking of a particular user accessing the room, and wherein the hierarchical levels comprise cities, where the cities include neighborhoods, the neighborhoods include houses, and the houses have rooms in McNerney's system since it would limit access to the system to prevent unauthorized use of sensitive data.

15. Claims 24, 30, 31, 33, 34 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNerney in view of Honda (US #6,020,885).

As per independent claim 24, McNerney does not disclose a rich media communication system, comprising a status window indicating rich media communications received, the user's visibility to other users, the user's availability to other users, and the user's automatic response to rich media communication messages from other users. Honda discloses that in col. 24, lines 26-54. It would have been obvious to an artisan at the time of the invention to use the teaching from Honda of a status window indicating rich media communications received, the user's visibility to other users, the user's availability to other users, and the user's automatic response to rich media communication messages from other users since it would allow the user to know other users' present in the communication system.

As per independent claim 30, McNerney teaches a rich media communication system, comprising:

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a theater window having a representation associated with a person (col. 5, lines 45-67 through col. 6, lines 1-28), the theater window having a stage onto which the person may direct rich media and being independent of other theater windows having representations associated with other persons (col. 5, lines 22-32 and col. 6, lines 11-19); and

McNerney does not disclose a client for publishing the theater window to a rich media website. Honda discloses that in col. 11, lines 20-67 through col. 12, lines 1-28. It would have been obvious to an artisan at the time of the invention to use the teaching from Honda of a client for publishing the theater window to a rich media website in McNerney's method since the theater window can be provide to unspecified users worldwide with ease and at low cost.

As per independent claim 31, McNerney does not disclose a rich media communication system, comprising a message center having a message reader, the message reader having a text message window and a rich media presentation window, wherein the rich media window may be toggled off such that a user may first read only the text message before requesting transmission of a rich media message for presentation in the presentation window. Honda discloses that in fig. 21-28. It would have been obvious to an artisan at the time of the invention to use the teaching from Honda of a rich media communication system, comprising a message center having a message reader, the message reader having a text message window and a rich media presentation window, wherein the rich media window may be toggled off such that a user may first read only the text message before requesting transmission of a rich media message for presentation

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in the presentation window in McNerney's system since it would reduce network traffic and time to request unwanted rich media messages.

As per independent claim 33, McNerney does not teach a rich media communication system, comprising: a server infrastructure for providing web hosting, message hosting and communication services; at least one content client that includes an authoring tool for generating a rich media communication; and a plurality of communicator clients for displaying, using the server infrastructure, the rich media communication at remote locations

Honda discloses a server infrastructure for providing web hosting, message hosting and communication services (fig. 18); at least one content client that includes an authoring tool for generating a rich media communication (fig. 18, col. 20, lines 12-26); and a plurality of communicator clients for displaying, using the server infrastructure, the rich media communication at remote locations (fig. 18, col. 20, lines 12-26). It would have been obvious to an artisan at the time of the invention to use the teaching from Honda of a server infrastructure for providing web hosting, message hosting and communication services; at least one content client that includes an authoring tool for generating a rich media communication; and a plurality of communicator clients for displaying, using the server infrastructure, the rich media communication at remote locations in McNerney's method since the rich media communication system can be provided to unspecified users worldwide with ease and at low cost.

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As per claim 34, which is dependent on claim 33, McNerney does not disclose the communicator client includes a message center, a renderer, and an encoder. Honda discloses that in col. 26, lines 3-10. It would have been obvious to an artisan at the time of the invention to use the teaching from Honda of the communicator client includes a message center, a renderer, and an encoder in McNerney's method since it would allow the user to communicate with others via on-line message center.

As per independent claim 41, it is a similar scope to claim 30; therefore, it should be rejected under similar rationale.

Response to Arguments

16. Applicant's arguments with respect to claims 1, 3, 11, 36, 40, 35 and 16 have been considered but are moot in view of the new ground(s) of rejection.

17. Applicant's arguments with respect to claims 2, 36, 39, 17, 25, 30, 37, 41, 24, 31, 33, 11, and 38 have been fully considered but they are not persuasive.

Applicants argued the following:

(a) As per independent claims, McNerney is completely silent as to provide any sort of capability to switch between character presentations during a session in the theater or theater window.

(b) As per claims 17, 25, 30, 37, and 41 McNerney does not teach the theater is independent of other theaters that include visual representations associated with other persons.

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(c) As per independent claim 24, Honda does not disclose features such as the capability to provide a status window indicating the user's automatic response to rich media communication messages from other users.

(d) As per claim 31, Honda does not disclose the rich media window is toggle off to allow reading of only the text message.

(e) As per claim 33, Honda does not discuss an authoring tool to generate a rich media communication.

(f) As per independent claims 11 and 38, the feature "non-real-life-equivalent background" is not found in McNerney.

The Examiner disagrees for the following reasons:

(a) McNerney does teach the capability to switch between character presentations during a session in the theater or theater window at col. 6, lines 39-55.

(b) McNerney's theater (conference room) is in fact independent of other theaters (other conference rooms) since changes within a conference room (e.g. changes in the number of participants) do not affect the other conference rooms.

(c) Honda does disclose the capability to provide a status window indicating the user's automatic response to rich media communication messages from other users at col. 24, lines 26-54 and at col. 26, lines 11-37.

(b) The text message window (Chat Window of fig. 25, for example) can be maximized for reading of only the text message. By doing that it toggles off (disappears) the rich media window (Cyber Passage Browser of fig. 25, for example).

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(e) According to Honda, the participants (clients) can use the Cyber Passage Bureau authoring tool to move object to desired positions on the rich media communication (col. 22, lines 51-60).

(f) The background in McNerney is the virtual reality meeting room (col. 5, lines 45-48). This background is graphically designed by user using computer software; therefore, it is definitely not a real-life background.

Inquiries

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon (Gary) D Nguyen whose telephone number is 703-305-8318. The examiner can normally be reached on Monday - Friday from 8 AM to 5:30 PM with every other Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Nhon (Gary) Nguyen
May 14, 2004

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